

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of DLC Cubed Corporation for authority to control East Bay Connection, Inc. pursuant to Section 854 of the California Public Utilities Code.

Application 05-02-008  
(Filed February 4, 2005)

**O P I N I O N****I. Summary**

This decision grants the application of DLC Cubed Corporation (DLC ) and the joint owners of East Bay Connection Inc., (Sellers)<sup>1</sup>, (together, Applicants) to transfer all of the stock of East Bay Connection, Inc. (East Bay) to DLC. This transaction will also result in the transfer of control of East Bay to DLC.

**II. Background**

Sellers are individuals who own 32,989 shares of stock in East Bay, a California corporation. East Bay holds Passenger Stage Corporation Certificate PSC-8614, which authorizes the company to transport customers from locations in Alameda, Contra Costa, and Solano County to the San Francisco and Oakland International Airports. East Bay also operates as a charter-party carrier under TCP-8614-P throughout the state.

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<sup>1</sup> East Bay is currently owned by Reshad Sulymankhel, Nazir Sulymankhel, Bashir Sulymankhel, Jawad Sulymankhel, and Hashmat Rahel.

DLC is a California corporation, which has its principal place of business in Lafayette, California.

Sellers wish to transfer all of the stock in Bay Area and control of the company to DLC. According to the application, DLC plans to operate East Bay and to serve customers in the same manner as in the past. Several of sellers have agreed to work with DLC to assist with the transition and to provide DLC with their expertise. For example, according to the application, Hashmat Rahel, who is the operations manager for East Bay, will enter into a contract to continue in this position for DLC. In addition, Nazir Sulymankhel, who is the financial officer of East Bay, will act as a consultant for DLC during the transition period. The application states that DLC has sufficient knowledge and experience to successfully manage East Bay.

DLC has agreed to purchase the stock of East Bay for \$500,000, subject to certain adjustments based on the profitability of East Bay during the 12 months following the closing of the transaction.

### **III. Discussion**

Public Utilities Code Section 854 provides that no person or corporation shall directly or indirectly acquire or control any public utility organized and doing business in California without first obtaining authorization from this Commission. In determining whether to grant an application under Section 854, the Commission must determine whether the transaction is in the public interest. The purpose of our review under Section 854 is to prevent the impairment of service to the public that would result if a public utility were transferred into the hands of parties incapable of providing adequate service at reasonable rates.<sup>2</sup>

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<sup>2</sup> See So. Cal. Mountain Water Co., 1 CRC 520 (1912).

The Commission has jurisdiction over passenger stage corporations<sup>3</sup> and charter-party carriers in this state.<sup>4</sup> We are particularly interested in maintaining reasonable, adequate, and sufficient transportation facilities and services for the public.<sup>5</sup>

Based on our review of this application, it appears that this transaction is in the public interest. DLC has represented that it will not make significant changes in East Bay's service to the public, and DLC will have the benefit of the financial and operations expertise of several of Sellers who will work with DLC during the transition.

#### **IV. Conclusion**

The application of Sellers and DLC for authorization pursuant to Section 854 to sell the stock of, and to transfer the control of, East Bay to DLC is granted.

#### **V. Categorization and Need for Hearings**

In Resolution ALJ 176-3148 dated February 24, 2005, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

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<sup>3</sup> Utility User's League v. Atchison R & S. F. Ry., 62 CPUC 144 (1964)

<sup>4</sup> Willingham Bus Lines, Inc. v. Municipal Ct. for San Diego Judicial dist. Of San Diego County, 59 Cal. Rptr. 618 (1967).

<sup>5</sup> Pollock Pines Chamber of Commerce v. Greyhound Lines, Inc., 66 CPUC 253, 256 (1966).

**VI. Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section § 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

**VII. Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. A notice of the filing of the application appeared in the Daily Calendar on February 11, 2005.
2. There were no protests to this application.
3. A hearing is not required.
4. East Bay holds Passenger Stage Corporation Certificate PSC-8614, which authorizes East Bay to transport customers from locations in Alameda, Contra Costa and Solano Counties to the San Francisco and Oakland Airports.
5. East Bay also operates as a charter-party carrier of passengers under TCP-8614-P throughout the state.
6. This transaction will result in the sale of 100% of the stock of East Bay to DLC.
7. This transaction will transfer control of East Bay to DLC.
8. DLC plans to make no substantial changes to the operation of East Bay or its service to the public.
9. DLC will have the benefit of the financial and operations expertise of several of Sellers, who will work with DLC after the transfer of East Bay to DLC.

**Conclusions of Law**

1. Under Section 854, the Commission must approve the transfer of control of any public utility organized and operating in this state to ensure that the transaction is in the public interest.
2. The purpose of Commission review under Section 854 is to ensure that the transfer will not adversely affect the availability of adequate service to the public at reasonable rates.
3. The Commission has jurisdiction to regulate common carriers and is particularly interested in maintaining reasonable, adequate, and safe transportation facilities and services for the public.
4. Based on the evidence presented, it appears that the transfer of East Bay to DLC is in the public interest.

**O R D E R**

**IT IS ORDERED** that:

1. The application is granted, as set forth below.
2. Within 120 days after the effective date of this decision, the owners of East Bay Connection, Inc., (East Bay) may transfer 100% of the stock and control of East Bay to DLC Cubed Corporation (DLC).
3. Within fifteen (15) days of the date the transaction closed, DLC shall notify the Commission's Consumer Protection and Safety Division in writing thereof.
4. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.